



Office of the New York State Attorney General Letitia James

Office of Special Investigation

October 26, 2023

Report on the Investigation into the Death of Quayshawn Samuel

DEATH OF QUAYSHAWN SAMUEL QUEENS COUNTY, DECEMBER 29, 2022

New York Executive Law Section 70-b (Section 70-b) authorizes the Attorney General's Office of Special Investigation (OSI) to investigate and, if warranted, to prosecute offenses arising from any incident in which the death of a person is caused by a police officer or peace officer. When OSI does not seek charges, Section 70-b requires issuance of a public report. This is the public report of OSI's investigation of the death of Quayshawn Samuel, who was shot and killed on December 29, 2022, by New York City Police Department (NYPD) Officer James Cameron.

OVERVIEW

On December 29, 2022, security video in the lobby of 439 Beach 54th Street, Far Rockaway, Queens County, a residential building, showed a group of men in the lobby. NYPD had access to a live feed of the lobby video and, based on the live feed, NYPD Officers James Cameron and Ryan Nohilly and NYPD Sergeant Sean Rafferty, members of the Neighborhood Safety Team, went to the lobby to speak with the men and investigate potential criminal activity. Sgt. Rafferty approached the front doors and Officers Cameron and Nohilly approached the rear doors. Quayshawn Samuel ran out one of the rear doors and Officer Cameron pursued Mr. Samuel on foot through the grounds of the apartment complex and across Beach Channel Drive to Beach 56th Street. Officer Nohilly was behind Officer Cameron. Officer Cameron believed Mr. Samuel was holding a gun.

As Officer Cameron ran through the apartment grounds he dropped his radio, and his body worn camera (BWC) fell off its mount. Officer Nohilly stopped to pick up Officer Cameron's radio, which left him farther behind in the foot pursuit. As Mr. Samuel crossed Beach Channel Drive, he stumbled and fell, allowing Officer Cameron to catch up to him as he ran into Beach 56th Street. On Beach 56th Street Officer Cameron and Mr. Samuel engaged in a physical struggle on the ground, with Officer Cameron on top of Mr. Samuel, who was holding a gun. After a few seconds Mr. Samuel was able to push himself up off the ground, and as he and Officer Cameron stood up, Officer Cameron saw the gun in Mr. Samuel's hand being raised in his direction. Officer Cameron fired his service weapon at Mr. Samuel, striking him in the chest and the leg. Mr. Samuel later died of his wounds. Surveillance video from a number of cameras captured the foot pursuit and the final struggle and shot.

Officer Nohilly arrived at the place where the shooting occurred a few seconds after the shots were fired; his BWC shows a gun lying in the street next to Mr. Samuel's hand and captures Officer Cameron's statements that he told Mr. Samuel to drop the gun. The recovered gun had a live round in the firing chamber, and NYPD testing later determined the recovered gun to be operable. The magazine from Mr. Samuel's gun was recovered from the area where Mr. Samuel stumbled and fell on Beach Channel Drive.

Having thoroughly investigated the matter and analyzed the law, OSI concludes that a prosecutor would not be able to disprove beyond a reasonable doubt at trial that Officer

Cameron’s use of deadly force against Mr. Samuel was justified under New York Law and will not seek charges in this case.

FACTS

Background

Officer Cameron has been a police officer with NYPD since January 3, 2019. Officer Nohilly has been a police officer with NYPD since July 5, 2015. On December 29, 2022, both officers were assigned to the 101st Precinct, in Far Rockaway, Queens, as members of the Neighborhood Safety Team (NST¹). Sgt. Rafferty has been a police officer with the NYPD since July 6, 2011, and a sergeant since 2021. On December 29, 2022, he was assigned to the 101st Precinct as the NST sergeant.

On December 29, 2022, Officer Cameron, Officer Nohilly, and Sgt. Rafferty wore their modified NYPD NST uniforms.



Figure 1. Officer Cameron in uniform on December 29, 2022.

This incident occurred in and near the Ocean Bay Apartments complex in Far Rockaway. The complex consists of twenty-four buildings, privately managed by Wavecrest Management company. A representative of Wavecrest told OSI that Wavecrest provides live video feeds from its security cameras to NYPD in an effort to combat illegal activity. Officers view the video in real time directly from their cellular phones through a downloadable application.

¹ NST is a police unit created to combat gun violence in New York City. Members of the NST drive unmarked NYPD cars, wear modified uniforms, and are given training on use of force, constitutional law, and community interactions. See [N.Y.P.D. Rolls Out New Version of Anti-Gun Unit With Violent Past - The New York Times](#).

Video

On the evening of December 29, 2022, video from the lobby of 439 Beach 54th Street, a building in the Ocean Bay Apartments, shows Mr. Samuel and other men inside the lobby for about thirty minutes prior to the shooting.² At times, the video shows the men smoking what appeared to be hand-rolled cigarettes.³ A few minutes before the incident began, three of the men in the lobby left the building, while Mr. Samuel and two other men remained in the lobby. Mr. Samuel walked toward the front doors and quickly turned around and left the building through the rear doors. The video shows that Sgt. Rafferty approached the front doors as Mr. Samuel left the lobby at the rear. Selected portions of video from the lobby of 439 Beach 54th Street prior to Mr. Samuel's departure may be viewed [here](#).



Figure 2. Front Entry Doors of 439 Beach 54th Street.



Figure 3. Rear Entry Doors of 439 Beach 54th Street.

² The video surveillance does not carry a date and time stamp.

³ According to Wavecrest Management, smoking of any kind is prohibited in all the common areas of Ocean Bay.

At 8:02:34 pm,⁴ video from 434 Beach 58th Street (accessible [here](#)) shows that Officers Cameron and Nohilly approached the rear entry of 439 Beach 54th Street as Mr. Samuel ran out of the building and through the courtyard of the apartment complex. The video shows that the officers ran after Mr. Samuel.

At 8:02:39 pm, video from the rear of 439 Beach 54th Street (accessible [here](#)) shows Mr. Samuel running out of the building into the courtyard of the apartment complex and Officers Cameron and Nohilly running behind him. The video shows that Officer Cameron dropped two items (8:02:40 pm; 8:02:45 pm) and that Officer Nohilly turned around and picked up one of the items (8:02:46 pm) as Officer Cameron continued running after Mr. Samuel. At 8:03:10 pm, the video shows that a man bent down and appeared to pick up the other item Officer Cameron dropped.

From 8:02:49 pm to 8:03:01 pm, video from 54-30 Beach Channel Drive⁵ (accessible [here](#)) shows that Officer Cameron pursued Mr. Samuel through the apartment complex courtyard; from 8:03:03 pm to 8:03:12 pm Officer Nohilly ran through the courtyard in the same direction as Mr. Samuel and Officer Cameron.

Video from 54-30 Beach Channel Drive⁶ (accessible [here](#)) shows that Mr. Samuel ran out of the apartment complex at 8:03:14 pm onto Beach Channel Drive where, about ten seconds later, he stumbled and fell as he crossed the roadway just west of the intersection at Beach 56th Street. Mr. Samuel stood up and continued to Beach 56th Street. The video shows that Officer Cameron ran after Mr. Samuel onto Beach 56th Street (8:03:33 pm).

Video from Beach 56th Street (accessible [here](#))⁷ shows Mr. Samuel and Officer Cameron in a physical struggle on Beach 56th Street just south of Beach Channel Drive. The video shows that Mr. Samuel fell on the ground in the middle of the street, and that Officer Cameron was on top of him. The two appeared to struggle on the ground before Mr. Samuel stood up, stumbled backward, and fell between two parked cars.

OSI created a compilation video from the those described above to provide a timeline of the pursuit and shooting. The compilation video may be viewed [here](#).

Officer Nohilly activated his BWC at 8:03:19 pm; the BWC pre-event buffer preserved video without audio for 60 seconds prior to activation. At 8:02:37 pm the BWC shows that Officers Nohilly and Cameron approached the rear of 439 Beach 54th Street, that Mr. Samuel ran out of the building, and that the officers ran after him. At 8:02:45 pm Officer Nohilly turned back toward 439 Beach 54th Street and bent down to pick up something from the ground; when he turned around Officer Cameron and Mr. Samuel were no longer visible on his BWC. Officer

⁴ These times were taken from video timestamps.

⁵ This camera was on the right side of 54-30 Beach Channel Drive.

⁶ This camera was on the left side of 54-30 Beach Channel Drive.

⁷ This video is from a pole camera installed by NYPD for an unrelated investigation. The video does not carry a date and time stamp.

Nohilly continued to run through the apartment complex. At 8:03:57 pm, as Officer Nohilly ran east on Beach Channel Drive toward Beach 56th Street, the audio of his BWC captured two gunshots. The BWC shows that Officer Nohilly turned onto Beach 56th Street where Officer Cameron was standing over Mr. Samuel, who was lying on the ground between two parked cars. At 8:04:14 pm, the BWC shows a black firearm on the ground next to Mr. Samuel's left hand (see Figure 6, below). Mr. Samuel said he was shot and Officer Cameron said, "He wouldn't drop the gun. I told him multiple times to drop the gun."

At 8:05:00 pm Officer Nohilly radioed for an ambulance. At 8:07:29 pm his BWC shows that Officer Nohilly and responding officers cut away Mr. Samuel's jacket and shirt, revealing a gunshot wound to his right chest. The officers applied a vented chest seal dressing to Mr. Samuel's chest. At 8:09:19 pm Mr. Samuel said he was shot in the leg. The officers cut away Mr. Samuel's pant leg, revealing a gunshot wound to the left thigh, and applied a tourniquet above the wound. At 8:10:25 pm Officer Nohilly's BWC shows that an ambulance arrived and removed Mr. Samuel.

Officer Nohilly's BWC footage can be accessed [here](#).⁸

Mr. Samuel was transported to Jamaica Hospital Medical Center; at 9:18 pm Dr. Sarah Allen pronounced him dead.

⁸ The BWC footage has been edited to limit images of Mr. Samuel after the shooting.

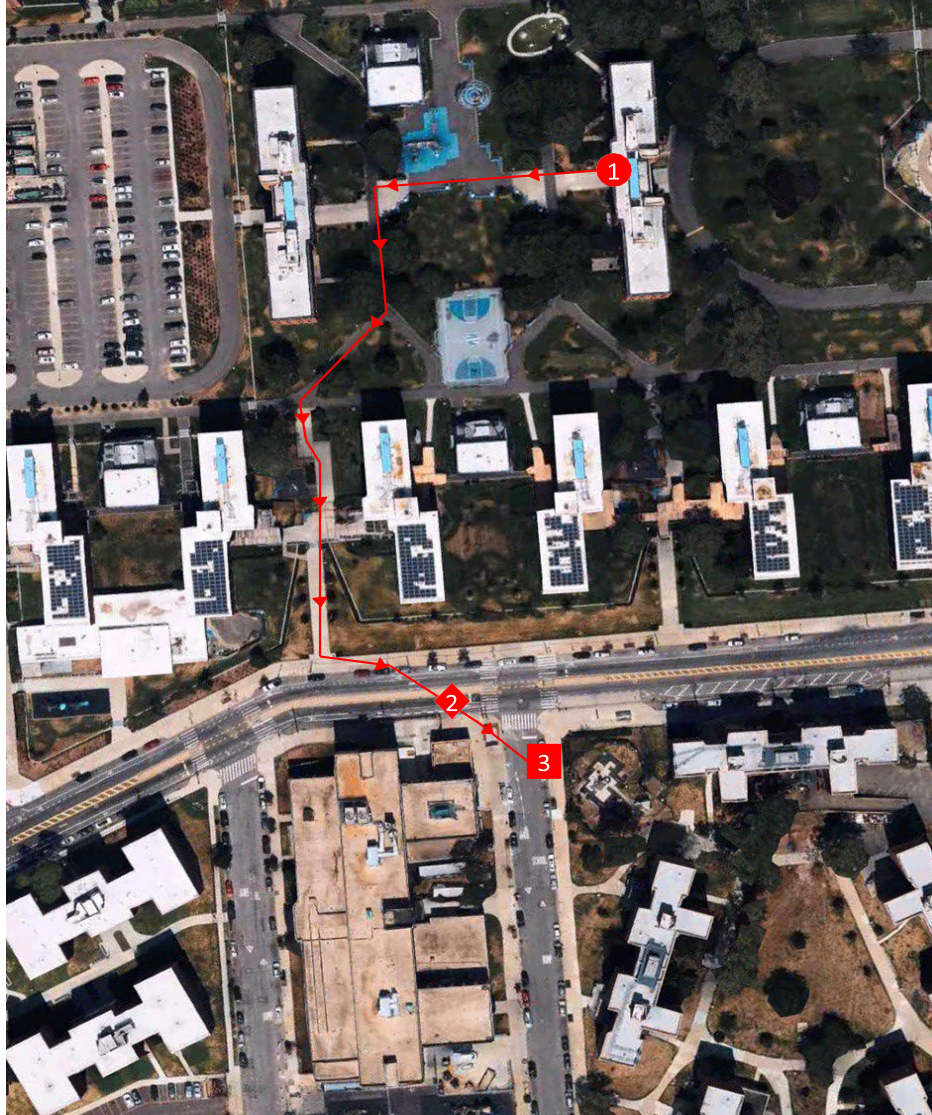


Figure 4. Map showing the route of the chase. 1: 439 Beach 54th Street. 2: area where Mr. Samuel fell. 3: area where shooting occurred.

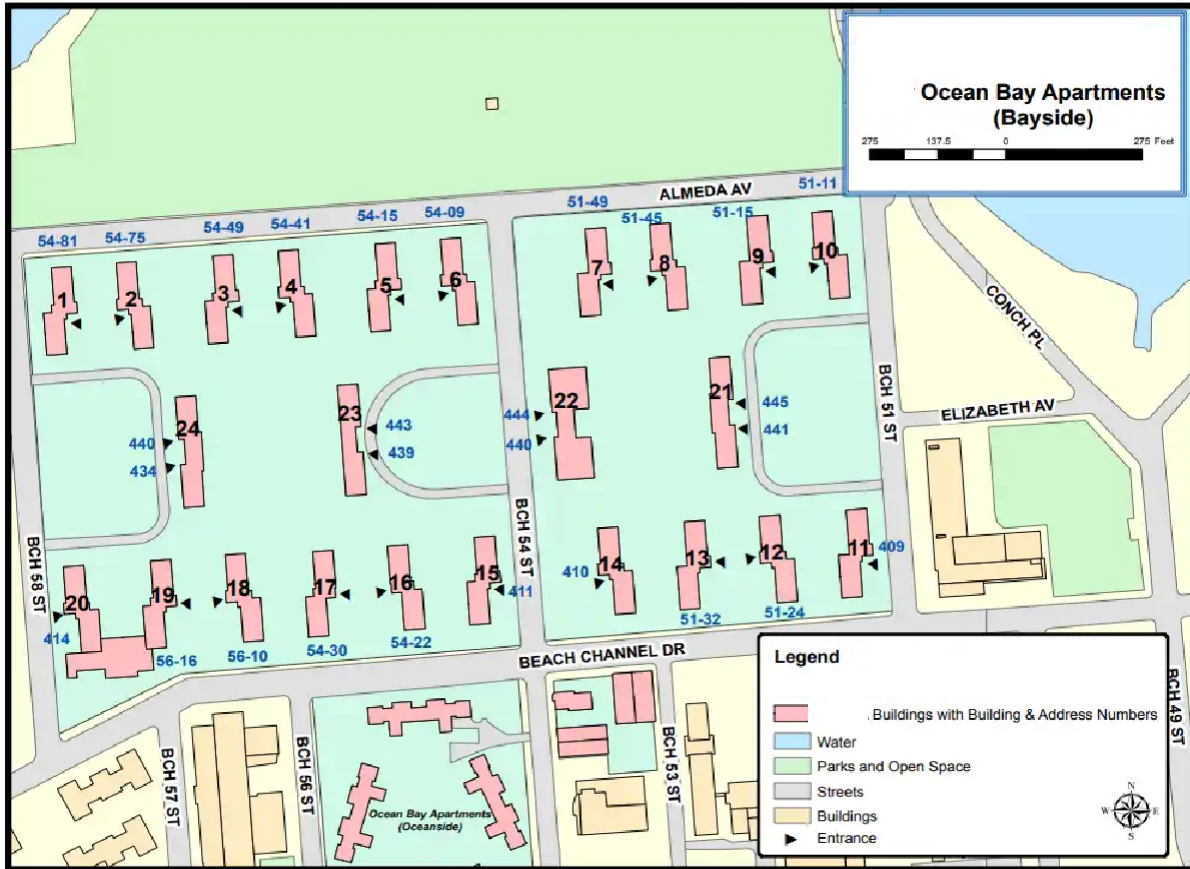


Figure 5. Ocean Bay Apartments.

ShotSpotter⁹

The Investigative Lead Summary generated by ShotSpotter technology indicates the number of rounds fired, provides audio of the shots fired, and the exact time and approximate location of the shooting. According to ShotSpotter, on December 29, 2022 two shots were fired, one at 8:03:57 pm and a second at 8:03:58 pm, at 365 Beach 56th Street, which is on the same block as the shooting, but slightly south.

Interviews

Officer Cameron

OSI interviewed Officer Cameron. He said that on the evening of December 29, 2022 he was patrolling in the 101st Precinct with Officer Nohilly and Sgt. Rafferty when Officer John Wilson,

⁹ According to the ShotSpotter Investigative Lead Summary, “ShotSpotter uses strategically placed acoustic sensors to detect and locate gunshots within a coverage area. The location of the gunshots are calculated using audio pulse data and multilateration. Machine learning algorithms analyze and classify the sounds before they are reviewed by acoustic experts at the Incident Review Center. Within seconds, Incident Reviewers add relevant tactical intelligence and publish confirmed gunshots to ShotSpotter subscribers.”

who was in the Field Intelligence Office (FIO), called Sgt. Rafferty to report people in the lobby of 439 Beach 54th Street smoking a marijuana joint and drinking alcohol. Officer Cameron said he believed Officer Wilson was watching the live feed into the building lobby via a computer monitor at the precinct. Officer Cameron said when he, Officer Nohilly, and Sgt. Rafferty arrived at the building he opened the live feed application on his phone and saw men passing around what he believed to be a marijuana joint.¹⁰ The officers decided Sgt. Rafferty would approach the front entry of 439 Beach 54th Street, and Officers Nohilly and Cameron would approach the back of the building to prevent people from fleeing out the rear doors of the building.

Officer Cameron said when he and Officer Nohilly arrived at the rear of 439 Beach 54th Street he saw Mr. Samuel run out the rear of the building; it appeared to him that Mr. Samuel possessed a firearm, based on how his right hand was positioned near his waist, with his elbow raised, and his hand clutching at his waist. Officer Cameron said he pursued Mr. Samuel through the apartment complex and during the pursuit his BWC, phone, and radio fell, but he did not stop to retrieve them because he did not want to lose sight of Mr. Samuel. Officer Cameron said he unholstered his firearm during the pursuit because he believed Mr. Samuel had a gun and he told Mr. Samuel to stop running, but Mr. Samuel continued to run. Officer Cameron re-holstered his gun when he approached Beach Channel Drive because he had to jump a fence; that was when he saw Mr. Samuel run across Beach Channel Drive and get hit by a car, causing him to fall in the middle of Beach Channel Drive and stumble to get up. According to Officer Cameron, when Mr. Samuel stood up he saw a gun in his right hand and he gave Mr. Samuel verbal commands to drop the gun. Officer Cameron said Mr. Samuel turned onto Beach 56th Street and fell in the middle of the street. Officer Cameron got on top of Mr. Samuel but could not see the gun when he was on top of him, did not know where it was, and repeatedly told Mr. Samuel to drop the gun. Mr. Samuel pushed up from the ground with the gun in his right hand and Officer Cameron tried to kick the gun away while giving Mr. Samuel commands to drop it. Officer Cameron said he heard Mr. Samuel say, "I dropped it," but Officer Cameron could still see it in his right hand. Officer Cameron said Mr. Samuel began to rise from the ground and as Officer Cameron stepped back he saw Mr. Samuel with the gun in his hand, moving upward. Officer Cameron thought Mr. Samuel was going to shoot him and gave additional commands to drop the gun, but Mr. Samuel raised the gun at Officer Cameron and Officer Cameron fired two shots at Mr. Samuel. After Officer Cameron fired the second shot, he heard what he believed was the sound of Mr. Samuel's gun falling to the ground. Officer Samuel found the gun under the car next to Mr. Samuel's body.

Officer Nohilly

Officer Nohilly said on December 29, 2022 he was in a vehicle with Sgt. Rafferty and Officer Cameron assisting patrol with backlogged 911 calls. During their tour Sgt. Rafferty received

¹⁰ Officer Cameron said he recognized some of the men as gang members and drug dealers with firearm arrests. This belief on Officer Cameron's part is not a factor in OSI's evaluation of this case.

information about people loitering in the lobby of 439 Beach 54th Street and possibly engaged in criminal activity. Officer Nohilly said Sgt. Rafferty decided to go to the location; their plan was for Sgt. Rafferty to approach through the front of the building and for him and Officer Cameron to enter through the rear. Officer Nohilly said when he and Office Cameron approached the rear of the building a group of men ran out of the building and he and Officer Cameron began to chase them. He said immediately after the pursuit began Officer Cameron dropped his radio. Officer Nohilly turned back to pick up the radio and when he turned around Officer Cameron and Mr. Samuel were gone. Officer Nohilly ran in the direction he believed they went and heard gunshots. He said when he arrived at Beach 56th Street and Beach Channel Drive he saw Officer Cameron standing over Mr. Samuel as he lay on the ground shouting, "You shot me." Officer Nohilly recalled Officer Cameron saying, "He wouldn't drop the gun, I tried to have him drop it." Officer Nohilly asked Officer Cameron where the gun was and Officer Cameron showed him the gun, on the ground next to Mr. Samuel. Officer Nohilly said they handcuffed Mr. Samuel, per NYPD protocol, and cut away his clothes. According to Officer Nohilly, officers from the 100th Precinct arrived and they rendered first aid until an ambulance arrived.

Sgt. Rafferty

Sgt. Rafferty said that on December 29, 2022 he was working with Officers Cameron and Nohilly when he received a call from Officer John Wilson, who was monitoring the cameras of Ocean Bay Apartments. Officer Wilson told Sgt. Rafferty that known gang members¹¹ were smoking in the lobby of 439 Beach 54th Street. Sgt. Rafferty said they decided to go to the building because he wanted to talk to the men in the lobby, identify them, and gather information. According to Sgt. Rafferty, there was no indication that the men were in possession of weapons – he and the other two officers would have approached the building differently if they had thought the men were armed. Sgt. Rafferty said he approached the front entry, and Officers Cameron and Nohilly approached the rear. When Sgt. Rafferty approached the front door he saw a group of men walk out of the lobby through the rear door and saw one of the men begin to run. Sgt. Rafferty said he was unable to enter the building so he ran around the building towards the rear.¹² When Sgt. Rafferty heard gunshots he went to Beach 56th Street where he saw Mr. Samuel on the ground with officers administering first aid.

K.B.

On October 23, 2023, an attorney representing Mr. Samuel's family provided OSI with the name and contact information for a witness, K.B. OSI interviewed K.B who said he knew Mr. Samuel from the neighborhood, through friends and family, since Mr. Samuel was a child and that on the date of this incident he (K.B.) was stopped at a red light at on Beach Channel Drive near the intersection at Beach 57th Street when Mr. Samuel jumped over a fence and ran directly

¹¹ Again, this belief is not a factor in OSI's analysis.

¹² When Sgt. Rafferty ran towards the rear of the building he observed JB (OSI does not publish names of civilians other than the decedent) running from the location. JB was apprehended and charged with drug possession.

past the front of his car; K.B. did not know it was Mr. Samuel at the time. K.B. said four or five men dressed in black were chasing Mr. Samuel, and, when the traffic light turned green, K.B. waited as the men ran across the front of his car behind Mr. Samuel onto Beach 56th Street; at the time K.B. was unaware the men were police officers. K.B. said he thought the men were going to assault Mr. Samuel and, in an attempt to intervene, he parked his car on Beach Channel Drive near Beach 56th Street. According to K.B., he heard one gunshot as he got out of his car and approached Beach 56th Street. K.B. said when he turned onto Beach 56th Street he saw two or three officers struggling with Mr. Samuel and yelling, “he has a gun,” before one of the officers fired a second shot, striking Mr. Samuel. K.B. said an officer was taken away in an ambulance as Mr. Samuel lay on the ground in pain without medical attention. K.B. said Mr. Samuel did not have a gun and officers did not find a gun on him.

K.B.’s statement is contradicted by the evidence collected during OSI’s investigation. Video from 54-30 Beach Channel Drive, accessible on page 4, shows one officer chased Mr. Samuel across Beach Channel Drive, not four or five. The same video shows that Mr. Samuel crossed Beach Channel Drive near Beach 56th Street, not Beach 57th Street; that the traffic light at the time was green, as evinced by the flow of traffic; and that neither Mr. Samuel nor the officer ran in front of a stopped car on Beach Channel Drive. Video does not show that anyone parked a car on Beach Channel Drive near Beach 56th Street and walked to Beach 56th Street before the shots were fired. Video surveillance from Beach 56th Street, accessible on page 4, shows that one officer struggled with Mr. Samuel, not two or three. Officer Nohilly’s BWC audio and the ShotSpotter report captured two shots fired in rapid succession, contrary to K.B.’s assertion of a struggle between the first and second shot. A few seconds after the shooting, Officer Nohilly’s BWC shows that a gun was on the ground near Mr. Samuel’s hand. Officer Nohilly’s and Officer Eric Olan’s BWCs show that several officers tended to Mr. Samuel until an ambulance arrived at 8:10 pm. BWCs further show that EMTs rendered medical aid to Mr. Samuel, placed him in an ambulance, and departed at 8:23 pm; a second ambulance departed at 8:24 pm. The NYPD Intergraph Computer Aided Dispatch (ICAD) report¹³ says that the first ambulance to depart transported Mr. Samuel and the second transported Officer Cameron.

Evidence Collected from the Scene

The NYPD Crime Scene Unit (CSU) collected evidence and took photographs. A black Smith & Wesson (S&W) SW40C .40 caliber semi-automatic pistol was recovered on the ground next to Mr. Samuel after he was shot.¹⁴ The pistol contained one S&W .40 caliber Winchester cartridge in the firing chamber; a magazine was not inserted in the pistol’s magazine well.

¹³ ICAD is the system used by emergency response operators and dispatchers to communicate with 911 callers and first responders. The ICAD system memorializes these communications through recordings and computer-generated reports.

¹⁴ Officer Nohilly’s BWC shows that Officer Cameron recovered the pistol. The pistol was processed by Det. Mecca of CSU.

On Beach Channel Drive, a few feet west of the intersection with Beach 56th Street, CSU recovered a gray metal S&W magazine (capacity:14) loaded with twelve .40 caliber S&W cartridges. The magazine was recovered from the area where video showed Mr. Samuel falling on Beach Channel Drive, immediately before turning onto Beach 56th Street. The recovered magazine was compatible with the recovered pistol.

The NYPD Police Laboratory Firearms Analysis Section (FAS) conducted an operability test on the recovered pistol and the live round found in the chamber and concluded both were operable.

CSU took possession of Officer Cameron's department-issued 9mm Glock 19 pistol. The pistol contained one 9mm Lugar+P cartridge in the chamber and a magazine (capacity: 16) containing thirteen 9mm Lugar+P cartridges.



Figure 6. Still image from Officer Nohilly's BWC showing Mr. Samuel on the ground and a pistol next to his hand.



Figure 7. Pistol recovered next to Mr. Samuel and the cartridge recovered from the pistol's chamber.

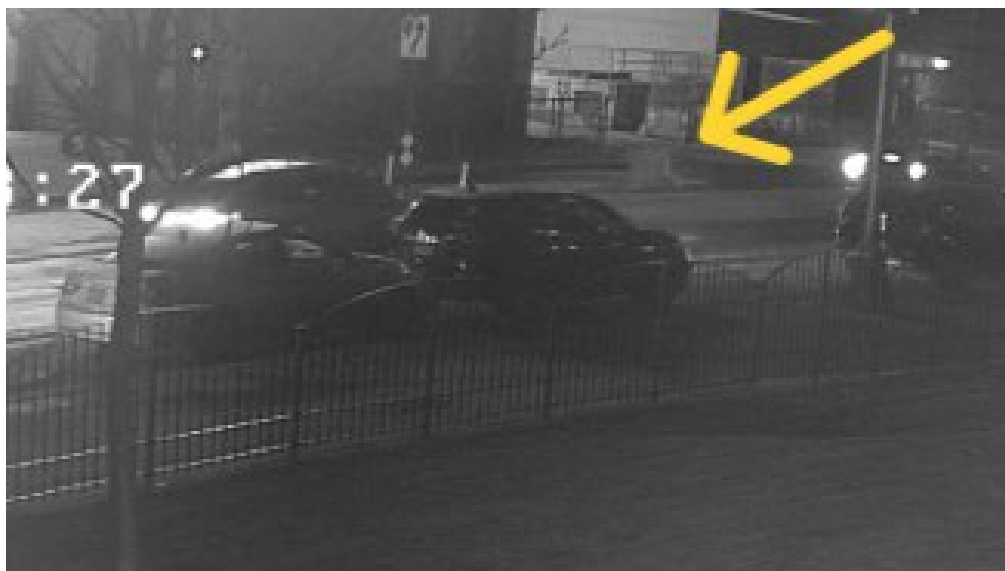


Figure 8. Still from security video showing Mr. Samuel falling on Beach Channel Drive..

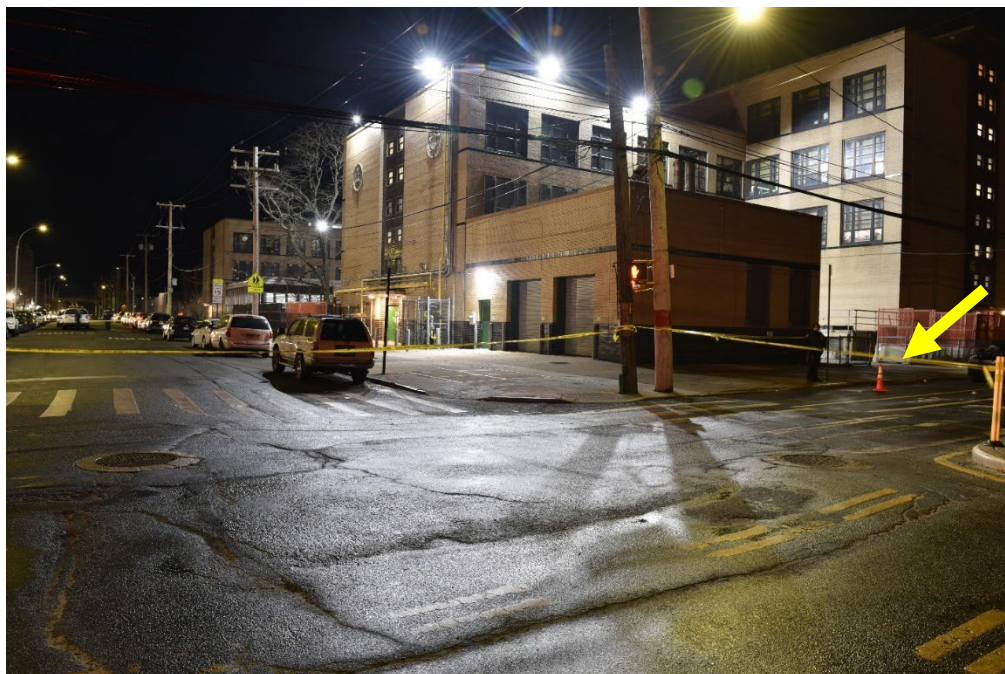


Figure 9. CSU photo: traffic cone shows where CSU recovered S&W magazine on Beach Channel Drive.

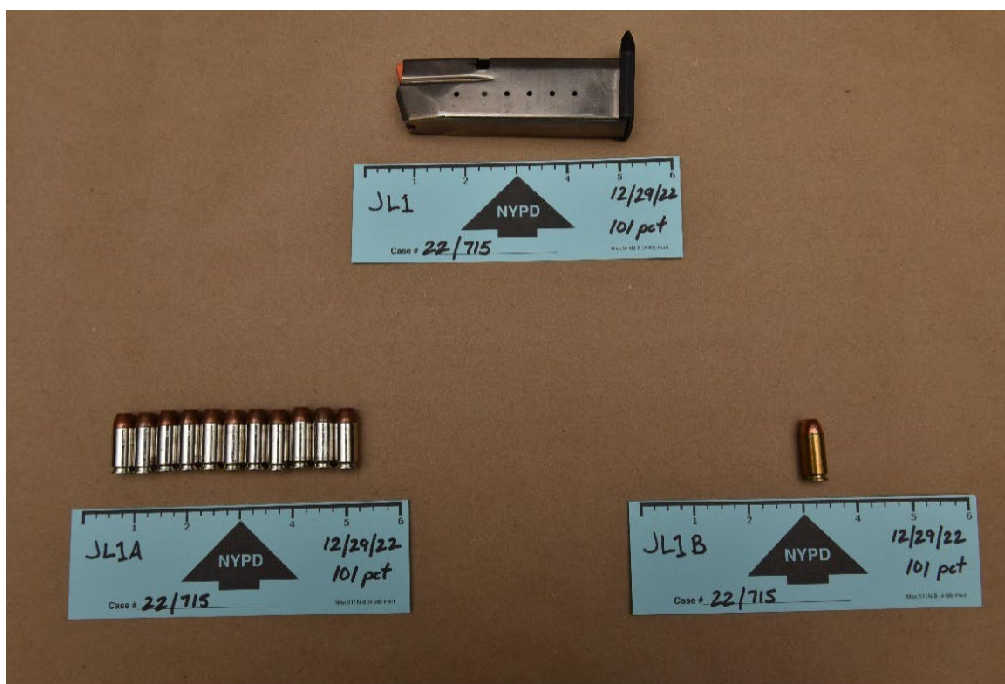


Figure 10. The recovered S&W magazine and cartridges.

CSU recovered two discharged 9mm Lugar+P shell casings and one deformed fired bullet on Beach 56th Street, just south of the Beach Channel Drive intersection. FAS microscopically compared the shell casings and fired bullet with test firings from Officer Cameron's department-issued pistol and concluded that the shell casings were ejected from Officer Cameron's pistol; the results for the fired bullet were inconclusive.

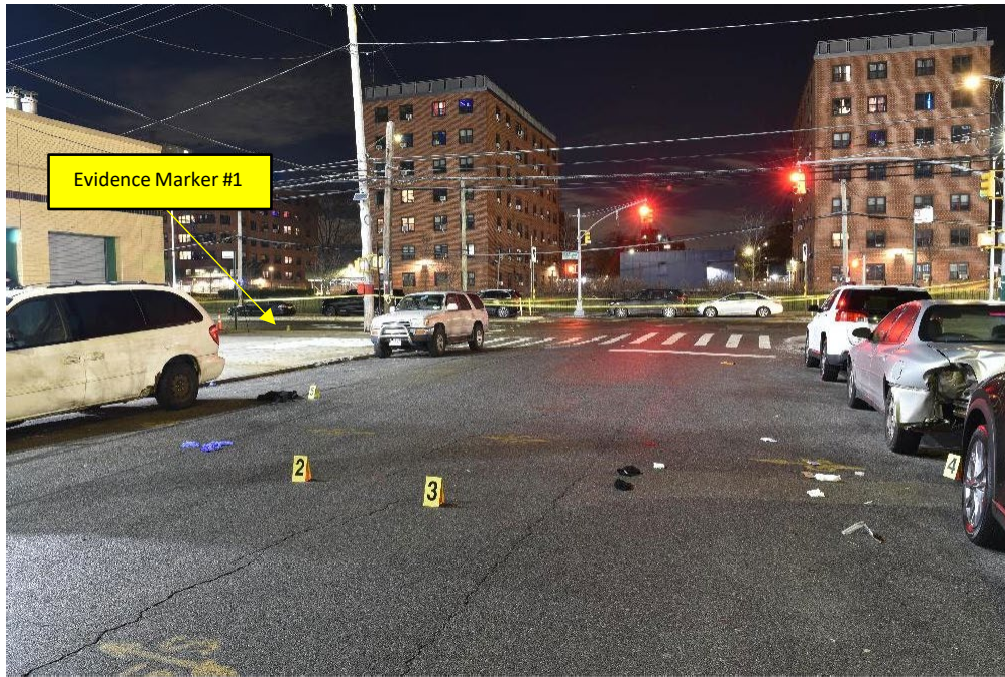


Figure 11. Marker 1: S&W magazine. Markers 2 and 3: shell casings. Marker 4: fired bullet.



The S&W pistol recovered next to Mr. Samuel was dusted for fingerprints. One latent print was potentially of value, but later determined to be insufficient for comparison.

The S&W pistol was swabbed for DNA. The Office of Chief Medical Examiner's (OCME's) Department of Forensic Biology tested the sample from the "edges of trigger and textured area of trigger guard" and found four DNA contributors, including one contributor at 78%, but concluded that Mr. Samuel was not a contributor. Regarding the "slide grip grooves and ridged areas of takedown catch, slide stop and magazine release," OCME noted, "Due to laboratory interpretation policies, no interpretation or comparisons were made to these samples because the mixtures are best described as five or more contributors."¹⁵

OSI interviewed criminalist Asako Ishii, the OCME analyst who performed the DNA analysis on the swabs taken from the S&W pistol. Ms. Ishii explained that after DNA is transferred from a person to an item any subsequent surface contact with the item will affect the presence of the DNA. Some examples of surface contact include contact with the ground, clothing, or another individual.

Office Nohilly's BWC footage shows the S&W pistol was the ground next to Mr. Samuel, and then it shows that Officer Cameron picked it up from the ground. Officer Wilson's BWC shows that he took the S&W pistol from Officer Cameron and shortly thereafter handed it to another officer on scene. As evidenced by the BWCs, none of the officers that handled the S&W pistol wore gloves.

Officer Cameron's Lost BWC

During his OSI interview Officer Cameron said he was wearing his BWC on the night of the incident but that it fell in the apartment complex as he pursued Mr. Samuel. At 8:02 pm, video from the rear of 439 Beach 54th Street, as described above, shows that Officer Cameron dropped two items as he ran after Mr. Samuel and shows that Officer Nohilly picked up one of the items, Officer Cameron's NYPD radio. At 8:03:10 pm, the video shows that a man bent down and appeared to pick up items from the ground in the area where Officer Cameron lost his BWC. Officer Cameron's BWC was not recovered during NYPD's post-shooting search of the area around the apartments.

On January 31, 2023, OSI met with Mr. Samuel's family and their attorney, Ilya Novofastovsky, who gave OSI disassembled parts of a BWC, which he said were anonymously left at his client's apartment door. OSI delivered the parts to the NYPD Force Investigation Division (FID). According to FID, their Axon supply chain manager identified the parts as an image sensor, antennas, SIM card, and battery from an Axon BWC, and said confirmed video footage could

¹⁵ The following areas were swabbed but not examined by the OCME: "inside barrel," edges of tip and headstamp of cartridge," "edges of loading port and baseplate," "headstamps of (11) cartridges collectively," "headstamp of cartridge."

not be retrieved from the disassembled parts because the circuit board and memory module were missing. The Axon supply chain manager matched the IMEI number on the BWC's returned SIM card to confirm that the BWC parts belonged to Officer Cameron's BWC.

Medical Examiner¹⁶

On December 30, 2022, Dr. Kara Storck of OCME performed the autopsy of Mr. Samuel and concluded that the cause of Mr. Samuel's death was "gunshot wound of torso." Dr. Storck's examination revealed that Mr. Samuel was shot twice, once in the right chest and once in the left thigh. The bullet that caused the chest wound lodged in the middle of his right back and was removed and forwarded to the NYPD laboratory for microscopic analysis.¹⁷ The bullet that caused the wound to the left thigh did not lodge in the body. Dr. Storck deemed the manner of death to be "homicide (shot by police)."

LEGAL ANALYSIS

New York Penal Law Article 35 sets forth the defense of justification to crimes involving the use of physical force. Justification is a defense, not an affirmative defense, Penal Law Section (PL) 35.00. If a defense is raised at trial, the burden is on the prosecutor to disprove it beyond a reasonable doubt, PL 25.00(1). The defendant is entitled to have the jury instructed on the defense of justification even if the defendant does not offer evidence, as long as the defense is implied by the prosecutor's evidence, *Jackson v. Edwards*, 404 F. 3d 612 (2d Cir. 2005); *People v. Padgett*, 60 N.Y.2d 142 (1983); *People v. Steel*, 26 N.Y.2d 526 (1970).

In this case, Officer Cameron used deadly physical force. Under PL 10.00(1), "deadly physical force" is "physical force which, under the circumstances in which it is used, is readily capable of causing death or other serious physical injury." Under PL 10.00(10), "serious physical injury" is "physical injury which creates a substantial risk of death, or which causes death or serious and protracted disfigurement, protracted impairment of health or protracted loss or impairment of the function of any bodily organ."

Under PL 35.15 the use of "deadly physical force" is justified if the actor reasonably believes that deadly physical force is "necessary to defend himself, herself or a third person," and if "the actor reasonably believes that [the] other person is using or about to use deadly physical force." If the actor is a police officer making or attempting to make an arrest for an offense, the officer is under no duty to retreat before using deadly physical force, PL 35.15(2)(a)(ii) and PL 35.30(1).

In *People v. Goetz*, 68 N.Y.2d 96 (1986), and later in *People v. Wesley*, 76 N.Y.2d 555 (1990), the Court of Appeals held that the phrase "reasonable belief" has both a subjective and an objective component. The subjective component is satisfied if the defendant believed, "honestly and in good faith" that deadly force was about to be used against him or her at the time the

¹⁶ OCME Report of Autopsy of Quayshawn Kahiem Samuel (Q-22-041420), December 30, 2022.

¹⁷ FAS performed a microscopic examination between the bullet and Officer Cameron's firearm, the results were inconclusive to either identify or eliminate the bullet as having been discharged from the firearm.

defendant used deadly physical force, and that the defendant's use of deadly physical force was necessary to repel the danger, regardless of whether that belief was accurate. *Goetz*, 68 N.Y.2d at 114. The objective component is satisfied if a "reasonable person" under the same "circumstances" could have held those same beliefs. *Goetz* at 115.

In this case, OSI concludes that a prosecutor would not be able to disprove that it was reasonable for Officer Cameron to believe that deadly physical force was necessary to defend himself from what he believed to be the use or imminent use of deadly physical force by Mr. Samuel. Officer Cameron said he saw Mr. Samuel holding a gun and that he repeatedly ordered him to drop it. Officer Cameron said Mr. Samuel did not drop the gun and that they struggled on the ground for several seconds, during which Officer Cameron was unable to see the gun. Officer Cameron said that as Mr. Samuel stood up he held the gun in his right hand and began to raise the hand toward Officer Cameron. Saying he feared Mr. Samuel would shoot him, Officer Cameron fired two shots at Mr. Samuel.

Officer Cameron's account is corroborated by the loaded firearm shown a few seconds later on Officer Nohilly's BWC lying on the ground next to Mr. Samuel's hand, Officer Cameron's spontaneous statements to Officer Nohilly, also captured on BWC, the magazine from Mr. Samuel's gun found on Beach Channel Drive, and the surveillance and security videos that show the foot pursuit and the final struggle.

For these reasons, OSI concludes that a prosecutor would not be able to disprove that Officer Cameron's actions were justified beyond a reasonable doubt at trial and therefore will not seek charges against Officer Cameron.